

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NORTHEASTERN DIVISION**

99.4298

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**KIM GENTRY,**

**Plaintiff,**

**V.S.**

**NO.: 2:08-0123**

**THE HERSHEY COMPANY, LIBERTY  
DISTRIBUTION, LLC and PETCO  
ANIMAL SUPPLIES, INC.,**

**Defendants.**

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**DEFENDANT PETCO ANIMAL SUPPLIES, INC.'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT  
ON THE ISSUE OF PUNITIVE DAMAGES**

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Comes now this Defendant, Petco Animal Supplies, Inc. (hereinafter "this Defendant"), by and through counsel, McNabb, Bragorgos & Burgess, PLLC, pursuant to Rule 56 of the Federal Rules of Civil Procedure, and moves this Court for entry of an Order granting this Defendant's Motion for Partial Summary Judgment on the Issue of Punitive Damages. As addressed more fully in this Defendant's contemporaneously filed Memorandum of Law, Plaintiff cannot meet the burden of proving that this Defendant acted intentionally, recklessly or fraudulently to warrant the imposition of punitive damages under Tennessee law.

In support of this Motion for Partial Summary Judgment, this Defendant relies upon its contemporaneously filed Memorandum of Law and Statement of Undisputed Material Facts, as well as the entire record in this matter.

**WHEREFORE, PREMISES CONSIDERED**, this Defendant respectfully requests that this Court enter an Order granting this Defendant's Motion for Partial Summary Judgment on the Issue of Punitive Damages.

Respectfully submitted,

**McNABB, BRAGORGOS & BURGESS, PLLC**

s/Lori J. Keen  
LORI J. KEEN, ESQ., #14916  
*Attorney for Defendant, Petco Animal Supplies, Inc.*  
81 Monroe Avenue, Sixth Floor  
Memphis, Tennessee 38103-5402  
(901) 624-0640  
(901) 624-0650 – fax  
[lkeen@mbb-law.com](mailto:lkeen@mbb-law.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been properly forwarded to:

**William Roberson, Esq.**  
*Attorney for Plaintiff, Kim Gentry*  
320 East Broad Street  
Cookeville, Tennessee 38501

**James C. Wright, Esq.**  
*Attorney for Defendant, Liberty Distribution, LLC*  
P. O. Box 2649  
Knoxville, Tennessee 37901-2649

**E. Todd Presnell, Esq.**  
**Charlnette A. Richard, Esq.**  
*Attorneys for Defendant, The Hershey Company*  
1200 One Nashville Place  
150 Fourth Avenue North  
Nashville, Tennessee 37219

this the 2<sup>nd</sup> day of November, 2009.

s/ LORI J. KEEN, ESQ.